

**CASCADE COUNTY  
SHERIFF - CORONER'S  
OFFICE**

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 2

DATE 3-6-09

BILL NO. HB244

OFFICE OF SHERIFF / CORONER  
3800 ULM NORTH FRONTAGE ROAD  
GREAT FALLS, MT. 59404

**SHERIFF**  
**David L. Castle**



**UNDERSHERIFF**  
**C.B. Corneliusen**

February 26<sup>th</sup>, 2009

Dear Senator,

I am Cascade County Sheriff/Coroner David Castle. I am writing you to oppose HB244 that amends MCA statute 7-4-2208. I have been with the Cascade County Sheriff's Office for more than 20 years. I am currently serving as the elected Sheriff/Coroner for my 2<sup>nd</sup> term. Speaking from that experience I have 3 major concerns with HB244.

First, deleting the 60 day period is a poorly crafted message to send the electorate and any law enforcement professional. My deputies take an oath that many elected offices take, pledging to God and Country. However, there is a difference, because my deputies, like myself, know that the oath we take brings with it many sacrifices, including every possibility that we may give our life so others can live. As Sheriff, I know the best example of leadership is to lead by example. Law enforcement leadership is character driven with pride, respect, integrity, and dedication; dedication not only to the profession, but dedication that defines who we are. I have experienced in my profession three attempts on my life, once being shot at in my own yard at home. I have witnessed many deputies sacrificing much of the same, sometimes worse and sadly sometimes themselves, just so others can live. As a Sheriff, I cannot imagine leading a profession of selfless law enforcement if I was absent from that duty for more than 60 days. I know this concept is hard to understand by anyone else, other than a character driven leader, which is often found in law enforcement, sometimes found in other Offices.

Personally I could never accept being absent without good cause. In any short absence I always explain and notify the electorate that has given me their trust for public safety and welfare, NOT a county commissioner. This brings me to the second concern.

Secondly, HB 244 flies in the face of one of the oldest Constitutional Offices in the United States. The Sheriff is an elected official by the people and NOT a bureaucratic employee. I hold an Office of government, not a department within government! Trying to make me subordinate and ask "permission" from a county commissioner is unconstitutional and absurd. The powers delegated to the Sheriff come from the vote of the people and cannot be delegated to any one or two other people. I will fight this on issue of it being a tyrannical government and it is a fight I know has commitment from county residents, the same county residents that are dealing with other current government and economic issues that they already feel they are losing. While the price I pay is less than death, I am very concerned about what ramifications this fight will create within our citizenry.

Last, HB 244 peaks my interest in where it was derived from? I cannot imagine anyone making this an issue if they truly have an understanding of service and commitment demanded by the public, requiring a successful attitude and selfless character of an elected official. As that elected Sheriff and Coroner, I am compassionate, if this was because of a personal burden, out of the control by the Official, there already are statutes that address this without it appearing selfish as currently written in HB 244.

WHEREAS; MCA 7-4-3007 excuses an assessor for reasons beyond control, including illness, a death in the family etc. etc.

WHEREAS; MCA 7-4-2902 addresses the absence of a Coroner if there are no qualified deputy Coroners available or the case involves family of the Coroner.

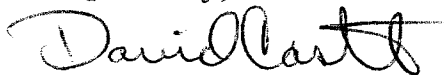
WHEREAS; MCA 7-32-2122 whenever a vacancy occurs in the office of Sheriff, the Undersheriff must in all things execute the office of sheriff.

In conclusion, the voters have not only elected me, but entrusted me with the Office of Sheriff/Coroner. If I break that trust, the people can recall and or choose not to re-elect. Here is a term and procedure I currently use, "notify" As Sheriff I know other judicial offices can be impacted from my absence; I notify my County Attorney and Judges for any prolonged absence. I leave a message by phone and dispatch to the citizens of my county where I am and what I am doing. By statute in my absence the UnderSheriff is in charge and can act as Sheriff or I can appoint any designee to take care of the daily operations of public safety and welfare. Furthermore;

HB 244 confuses and contradicts current statute regarding Coroners and Sheriffs duties. I would not recommend one of the Cascade County Commissioners be in charge or get their permission anymore than I would have them operate on someone's heart or prosecute someone in court. I would not jeopardize trust, public safety, welfare, or security, by getting their civil permission, on law enforcement sensitive investigations with crime.

Thank you for your time and if I can be of any further help, please don't hesitate to call. I strongly oppose HB 244.

Respectfully,

A handwritten signature in cursive script that reads "David Castle".

Sheriff/Coroner David Castle

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#3800 Ulm N. Frontage rd.  
Great Falls, Mt. 59401  
Ph#454-7688 cell#899-6998

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**7-4-3007. Qualifications for office of county assessor -- forfeiture of office.** (1) In addition to the qualifications set forth in [7-4-2201](#), each assessor, before entering the duties of office, shall:

(a) take and file with the county clerk the constitutional oath of office; and

(b) certify to the county clerk that:

(i) the assessor has satisfactorily completed the assessor certification training as provided in [15-7-106](#) (4); or

(ii) the assessor intends to take the assessor certification training at the next offering.

(2) An assessor forfeits office for failure to take and satisfactorily complete the assessor certification training within 36 months after taking office by election or appointment or for failure to satisfactorily complete continuing education when conducted by the department of revenue, unless the board of county commissioners finds that:

(a) the assessor is excused for reasons beyond the assessor's control, including illness, a death in the family, or other good cause; or

(b) there is no other qualified person available for appointment as assessor.

(3) Subsections (1)(b) and (2) do not apply to county officers who are county assessors because their county office has been consolidated with the office of county assessor and who are not contractually required to perform property assessment duties for the department.

**History:** En. Sec. 1, Ch. 623, L. 1989; amd. Sec. 167, Ch. 27, Sp. L. November 1993.

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**7-4-2902. Vacancy in office of county coroner or disqualification of coroner.** (1) The coroner, or the board of county commissioners if the coroner is unable or refuses to act, shall request the coroner or a qualified deputy coroner of another county to be acting county coroner if the coroner:

(a) is absent or unable to attend to duties or if the office of coroner is vacant and there are no qualified deputies available;

(b) is related to the deceased;

(c) is a potential party in an action concerning the death or the coroner's inquiry into the death may pose a conflict of interest;

(d) has not successfully completed the basic coroner course required in [7-4-2905](#) and there are no qualified deputies available; or

(e) is disqualified under the provisions of [46-4-201](#).

(2) The salary of and expenses incurred by an acting coroner on behalf of a requesting county are an allowable charge against the requesting county.

**History:** (1)En. Sec. 4494, Pol. C. 1895; re-en. Sec. 3070, Rev. C. 1907; re-en. Sec. 4852, R.C.M. 1921; Cal. Pol. C. Sec. 4289; re-en. Sec. 4852, R.C.M. 1935; Sec. 16-3405, R.C.M. 1947; (2)En. Sec. 4640, Pol. C. 1895; re-en. Sec. 3173, Rev. C. 1907; re-en. Sec. 4922, R.C.M. 1921; amd. Sec. 1, Ch. 59, L. 1933; re-en. Sec. 4922, R.C.M. 1935; amd. Sec. 1, Ch. 9, L. 1937; amd. Sec. 1, Ch. 211, L. 1951; amd. Sec. 9, Ch. 439, L. 1975; Sec. 25-236, R.C.M. 1947; R.C.M. 1947, 16-3405, 25-236(part); amd. Sec. 3, Ch. 371, L. 1979; amd. Sec. 2, Ch. 367, L. 1987; amd. Sec. 439, Ch. 61, L. 2007.

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**7-32-2122. Duties of undersheriff.** Whenever a vacancy occurs in the office of sheriff, the undersheriff must in all things execute the office of sheriff until a sheriff is elected or appointed and duly qualified.

**History:** En. Sec. 4383, Pol. C. 1895; re-en. Sec. 3012, Rev. C. 1907; re-en. Sec. 4776, R.C.M. 1921; re-en. Sec. 4776, R.C.M. 1935; R.C.M. 1947, 16-2704(part).

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